

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Criminal No. 04-281 (MJD/JGL)

Plaintiff,

v.

**REPORT AND
RECOMMENDATION**

JAVIER AMADOR-HERNANDEZ,

Defendant.

APPEARANCES

Jeff Paulsen, Esq., Assistant United States Attorney, on behalf of Plaintiff
United States of America

Richard Malacko, Esq., on behalf of Defendant Javier Amador-Hernandez

JONATHAN LEBEDOFF, Chief United States Magistrate Judge

The above-entitled matter came on for hearing before the undersigned Chief Magistrate Judge on July 26, 2005 on Motions by Defendant. The matter is scheduled to be tried before the Honorable Michael J. Davis beginning on September 12, 2005. The case has been referred to the undersigned for resolution of pretrial matters pursuant to 28 U.S.C. § 636(b)(1) and D. Minn. LR 72.1.

On May 7, 2004, Defendant Javier Amador-Hernandez was charged by sealed Indictment with Conspiracy to Distribute

Methamphetamine and Marijuana (Count 1), Being Aided and Abetted by Others Possessed with Intent to Distribute Methamphetamine (Counts 2 and 3), and Being Aided and Abetted by Others Possessed with Intent to Distribute Marijuana (Count 4). A bench warrant was issued for Defendant's arrest the same day. However, Defendant avoided arrest until May 9, 2005. The Indictment was unsealed on May 10, 2005.

A pretrial motions hearing was held on July 26, 2005 before this Court. Defendant was present and represented by counsel. Additionally, a Spanish language interpreter translated the proceedings for Defendant's benefit. No exhibits were admitted into evidence at the hearing and no witnesses testified. Neither party requested additional briefing.

Each party represented to the Court that all issues contained in the dispositive Motions filed by Defendant are now moot.

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED:**

(1) Defendant's Motion to Suppress Evidence Obtained as a Result of Search and Seizure (Doc. No. 20) should be **DENIED AS MOOT**;

(2) Defendant's Motion to Suppress Statements (Doc. No. 21) should be **DENIED AS MOOT**;

(3) Defendant's Motion to Suppress All Identifications of Defendant Obtained Through Unlawful Identification Procedures (Doc. No. 22) should be **DENIED AS MOOT**; and

(4) Defendant's Motion to Dismiss for Illegal Stop and Arrest (Doc. No. 23) should be **DENIED AS MOOT**.

Dated: July 27, 2005

s/ Jonathan Lebedoff
JONATHAN LEBEDOFF
Chief United States Magistrate Judge

Pursuant to D. Minn. LR 72.1(c)(2), any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties by August 17, 2005, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to ten pages. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Circuit Court of Appeals. Unless the parties are prepared to stipulate that the District Court is not required by 28 U.S.C. § 636 to review a transcript of the hearing in order to resolve all objections made to this Report and Recommendation, the party making the objections shall timely order and cause to be filed within ten days a complete transcript of the hearing.